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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

REICHLE, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,006

Applicant(s)

SAUER, BARBARA O.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6-1-04 has been entered.

Claim Language Interpretation

2. The terminology "discrete pleats" is defined as set forth on page 11, lines 17-18. It is noted "well defined is considered a relative term.

Claim Objections

3. Claims 9-14 are objected to because of the following informalities: in claim 9, line 5, "toward the" should be --toward a-- and on line 9, "a" should be --the--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 2-7, 9-14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimberly Clark PCT '710.

See Figures 10-15, the paragraph bridging pages 2-3, page 8, lines 7-10, page 8, lines 12-22, page 23, lines 30-34, page 24, line 10-page 25, line 26, page 29, line 29-page 30, line 35, page 31, line 24-page 32, line 3, page 35, first paragraph, page 38, lines 8-17 and page 42, first paragraph. It is noted that the claims do not require a monolithically formed flap sheet, i.e. the elongated material is 50, 52, the backsheet is 50, the topsheet is the envelope web as disclosed at page 35, first full paragraph, the absorbent layer is 52, the flap sheet or pocket sheet is 102, the pleats are the Z-folded portions of 110, a pocket is defined between the Z folded portions, see again page 23, lines 30-34, paragraph bridging pages 24-25 (Note liquid could also inherently include liquid fecal material or liquid components of fecal material also) and the first paragraph on page 42, and the point bonding is disclosed at page 31, last paragraph, e.g. points or spots of adhesive bonding, and page 25, lines 8-15.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 2-7, 9-14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaar '150 in view of Kimberly Clark '359, Igaue et al '420 and Foreman'677.

In regard to claims 2-3, 6, 9-10, 13, and 18: See Schaar '150 at Figures 5-8, 10, and col. 3, lines 43-48, the elongated material is 28, 32, 36, the backsheet is 28, the

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topsheet is 32, the absorbent layer is 36, the flap sheet or pocket sheet is 48, the pleats are A, B and D, E, the pocket is defined by A, B, C, D, E, see col. 1, lines 57-60, col. 4, lines 29-35, and 60-64, col. 5, lines 36-58, i.e. the pocket is defined by the pleats between sheet 48 and liner 32, see especially col. 5, lines 44-50, and the point bonds are 58, see also col. 6, line 3.

In regard to claims 7 and 14: see Figure 2, 48 and col. 3, lines 43-44.

Therefore, with regard to claims 2-3, 6-7, 9-10, 13-14 and 18, the Schaar '150 device includes all the claimed structure except for the flap, see 48 in Figures 1 and 2 of '150, is not a separate flap sheet attached by point bonding at an edge disposed toward the back region. Schaar '150 teaches a flap which is integrally formed with the back region. However, see page 12, line 26-page 13, line 10 and page 9, lines 1-11 of '359, i.e. a flap which is integrally formed as part of a region can also be separate sheet attached to that region by point bonding, and Figures 10-14 of '420, i.e. a flap which is a separate sheet from the region it is attached to rather than integrally formed therewith can be directly attached to either surface of the liner of that region, and '677, Figures and, e.g., col. 12, lines 24-28, i.e. end flaps may be attached and structured similarly to leg flaps for use on an absorbent article. Therefore, to make the flap integrally formed with the back region of Schaar '150 a flap of a separate sheet directly attached by point bonding as claimed would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by '359, '420 and '677. It is merely noted that the criticality of point bonding as compared to other forms of bonding has not been disclosed, see page 11, lines 16-19 of the instant disclosure.

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With regard to claims 4-5 and 11-12, see 48, 30, 32 and 36 in Figure 2 of Schaar. Also see col. 3, lines 43-50 of Schaar. Applicant claims at least one of the flap sheet, backsheet and liner or flap sheet of nonwoven material which Schaar does not specifically set forth. However see Foreman '677 at col. 7, lines 1-22, Igaue et al '420 at col. 3, line 35 and col. 4, line 19 and Kimberly Clark '359 at page 10, lines 15-17. To employ a nonwoven as taught by Foreman, Igaue et al and Kimberly Clark '359 on the Schaar device as the liner would be obvious to one of ordinary skill in the art in view of the recognition that such are known as suitable liquid pervious materials for topsheets and the desire of Schaar to employ a topsheet of liquid pervious material.

8. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being obvious over Kimberly Clark '710 in view of Igaue et al.

Applicant claims forming a multilayer material of rectangular configuration, removing portions, i.e. producing a final hourglass configuration, and forming pleats in the flap sheet proximate the back region. See cited portions of '710 supra, i.e. '710 teaches a flap sheet 102 attached directly to the liner proximate the back region, see Figures 12-13, which flap is pleated with two discrete longitudinal pleats, i.e. the Z folded portions of 110 disposed along pocket edge. The '710 patent does not teach the rectangular configuration or removing portions, i.e. forming an hourglass configuration, steps. However, see cited portions of '710 as well as page 22, line 23-page 23, line 2 thereof and column 3, line 60-column 4, lines 12 and Figures 7-8 of Igaue et al. To employ a rectangular material which has a portion removed to create a final hourglass shape as taught by Igaue et al on the '710 device would have been obvious to one of ordinary skill in the art in view of the recognition that such would provide more efficient manufacture,

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i.e. easier to align rolls of material and shape than align already shaped material, and the desirability of efficiency in manufacture of any article. In so doing, upon definition and identification of the portion of the material which is the rear portion, i.e. removing portions, attachment of tabs steps etc, the pleats in the flap sheet are necessarily "formed" in the region they are proximately attached to, i.e. the rear portion, whether the flap sheet is pleated prior to or after the removing step. The claims do not require pleating an unpleated flap sheet after the removing the portions step. It is merely noted that the criticality of making the article in this manner has not been disclosed in the instant specification, see page 12, first full paragraph thereof.

Response to Arguments

9. Applicant's remarks with respect to the prior art rejections have been considered but are deemed not persuasive in light of the prior art rejections supra.

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. It is noted that the Turner et al '988 reference, already of record, teaches the interchangeability of point bonding for adhesive bonding. The Sayama '098 reference, already of record, also teaches at least the invention of claim 18 but was patented less than one year before the effective filing of the instant application. The Endres et al '302 reference teaches using various interchangeable alternatives including pleats for elastics to create volume in a pocket.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 308-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
August 16, 2004